

AMENDED IN SENATE SEPTEMBER 7, 2001

AMENDED IN SENATE AUGUST 28, 2001

AMENDED IN SENATE AUGUST 20, 2001

AMENDED IN SENATE JULY 9, 2001

AMENDED IN ASSEMBLY APRIL 30, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1277**

**Introduced by Assembly Member Cardenas**

February 23, 2001

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An act to amend Sections 7685 and 7685.5 of, and to add Sections 7685.6 and 7735.5 to, the Business and Professions Code, relating to funeral directors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1277, as amended, Cardenas. Funeral directors.

Existing law, the Funeral Directors and Embalmers Law, *provides for regulation of funeral directors and other licensees by the Cemetery and Funeral Bureau of the Department of Consumer Affairs*. Existing law requires specified information to be included in a funeral establishment's price list, requires ~~the availability of~~ a consumer guide *to be provided* in certain situations, and prescribes penalties for ~~misrepresentation of a funeral director without a valid license and for any violation concerning preneed funeral arrangement contracts~~ *violations of these and various other provisions*.

This bill would require that a statement be included on a funeral establishment's price list providing that ~~survivors~~ *the survivor* of the deceased ~~who will be handling the funeral arrangements are or the responsible party is~~ entitled to receive a copy of any preneed funeral arrangement contract ~~executed~~ *paid for by or on behalf of* the deceased ~~prior to the at need arrangement session~~. The bill would require the Cemetery and Funeral Bureau ~~of the Department of Consumer Affairs~~ to develop a form *containing certain information* that would be required to be provided to consumers by a funeral establishment prior to the drafting of a contract for funeral services. The bill would require this form to be signed and dated by the consumer and a representative of the funeral establishment. The bill would *also* require a funeral establishment to provide the consumer with a consumer guide for funeral and cemetery purchases prior to the drafting of a contract for funeral services. Because the bill would add additional requirements concerning preneed funeral arrangement contracts, the violation of which is a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7685 of the Business and Professions
- 2 Code is amended to read:
- 3 7685. (a) Every funeral director shall provide to any person,
- 4 upon beginning discussion of prices or of the funeral goods and
- 5 services offered, a written or printed list containing but not
- 6 necessarily limited to the price for professional services offered,
- 7 which may include the funeral director's services, the preparation
- 8 of the body, the use of facilities, and the use of automotive
- 9 equipment. All services included in this price or prices shall be
- 10 enumerated.~~The~~
- 11 (b) *The list shall also include a statement indicating that the*
- 12 *survivor of the deceased who is handling the funeral*

*arrangements, or the responsible party, is entitled to receive, prior to the drafting of any contract, a copy of any preneed agreement that has been signed and paid for, in full or in part, by or on behalf of the deceased, and that is in the possession of the funeral establishment.*

*(c) The funeral director shall also provide a statement on that list that gives the price range for all caskets offered for sale. The funeral director shall also provide a written statement or list that, at a minimum, specifically identifies a particular casket or caskets by price and by thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements under Title 16, Code of Federal Regulations, Part 453 and any subsequent version of this regulation, when a request for specific information on a casket or caskets is made in person by any individual. Prices of caskets and other identifying features such as thickness of metal, or type of wood, or other construction, interior and color, in addition to other casket identification requirements required to be given over the telephone by Title 16, Code of Federal Regulations, Part 453 and any subsequent version of this regulation, shall be provided over the telephone, if requested. ~~The price list shall also include a statement indicating that survivors of the deceased who are handling the funeral arrangements are entitled to receive a copy of any preneed funeral arrangement contract executed by the deceased prior to the at need arrangement session.~~*

SEC. 2. Section 7685.5 of the Business and Professions Code is amended to read:

7685.5. (a) The bureau shall make available to funeral establishments and cemetery authorities a copy of a consumer guide for funeral and cemetery purchases for purposes of reproduction and distribution. The funeral and cemetery guide that is approved by the bureau, in consultation with the funeral and cemetery industries and any other interested parties, shall be made available in printed form and electronically through the Internet.

(b) A funeral establishment shall prominently display and make available to any individual who, in person, inquires about funeral or cemetery purchases, a copy of the consumer guide for funeral and cemetery purchases, reproduced as specified in subdivision (a).

(c) Prior to the drafting of a contract for funeral services, the funeral establishment shall provide, *for retention*, the consumer with a copy of the consumer guide for funeral and cemetery purchases described in subdivisions (a) and (b).

SEC. 3. Section 7685.6 is added to the Business and Professions Code, to read:

~~7685.6. (a) The bureau shall develop a form that is made available to funeral establishments for purposes of reproduction and distribution and available electronically through the Internet, that is simple and easy to read, that is separate and distinct from other forms funeral establishments are required to use, and that includes all of the following:~~

~~(1) The definition of a preneed arrangement adopted by the bureau by regulation.~~

~~(2) A statement that the funeral establishment must disclose if a preneed arrangement exists and provide the survivor of the deceased who is handling the arrangements or the responsible party a copy of any preneed agreement and that this does not preclude the ability of consumers to inquire about the existence of a preneed arrangement.~~

~~(3) A statement about the bureau's role and responsibility to consumers regarding funeral establishments, including bureau contact information and instructions stating how a consumer can report suspected wrongdoing of a funeral establishment.~~

~~(b) The form developed by the bureau shall also include the following information that the consumer shall acknowledge by an affirmative check off and signature:~~

~~(1) That the consumer has received the form.~~

~~(2) That the consumer has been provided information regarding the existence of any preneed arrangements by the funeral establishment.~~

~~(3) That the consumer has received the Cemetery and Funeral Bureau consumer guide from the funeral establishment.~~

~~(4) That the consumer has received a copy of the funeral establishment's price list.~~

~~(c) The form developed pursuant to this section shall be provided to and the above information shall be checked off by the consumer prior to the drafting of a contract for funeral services with a representative of the funeral establishment.~~

1 ~~(d) Prior to drafting a contract for funeral services, the form~~  
2 ~~developed pursuant to this section shall be signed and dated by the~~  
3 ~~consumer and a representative of the funeral establishment. The~~  
4 ~~original copy of the form shall be given to the consumer and the~~  
5 ~~funeral establishment shall retain a copy for a period of time to be~~  
6 ~~decided by the bureau.~~

7 ~~(e)~~

8 7685.6. (a) Every funeral establishment, prior to drafting  
9 any contract for funeral goods or services, shall present to the  
10 survivor of the deceased who is handling the funeral  
11 arrangements, or the responsible party, a statement disclosing  
12 whether or not the funeral establishment has any preneed  
13 agreement made by or on behalf of the deceased. If the funeral  
14 establishment has a preneed agreement made by or on behalf of the  
15 deceased, the statement shall also declare the establishment's  
16 compliance with Section 7745. The disclosure statement shall be  
17 signed and dated by the representative of the funeral establishment  
18 and by the survivor or responsible party. The completed disclosure  
19 statement shall be retained by the funeral establishment for a  
20 period of time determined by the bureau, and a copy shall be given  
21 to the survivor or responsible party.

22 (b) The bureau shall develop a form, in consultation with the  
23 funeral industry and any other interested parties, that is separate  
24 and distinct from other forms, upon which the disclosure statement  
25 shall be made. The bureau shall make the form available to funeral  
26 establishments for purposes of reproduction and distribution, and  
27 the form shall also be available electronically through the Internet.  
28 The form shall be simple and easy to read and shall include all of  
29 the following:

30 (1) The definition of a preneed arrangement, adopted by the  
31 bureau by regulation.

32 (2) A statement of the funeral establishment's responsibilities  
33 under Section 7745.

34 (3) Information about how the consumer may contact the  
35 bureau for more information or how to file a complaint against a  
36 licensee.

37 (c) A violation of this section constitutes grounds for  
38 disciplinary action.

39 ~~(f)~~

40 (d) This section shall become operative July 1, 2002.

1 SEC. 4. Section 7735.5 is added to the Business and  
2 Professions Code, to read:

3 7735.5. The preneed funeral arrangement contract shall  
4 clearly state if benefits are unavailable or limited for any reason.

5 SEC. 5. No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution because  
7 the only costs that may be incurred by a local agency or school  
8 district will be incurred because this act creates a new crime or  
9 infraction, eliminates a crime or infraction, or changes the penalty  
10 for a crime or infraction, within the meaning of Section 17556 of  
11 the Government Code, or changes the definition of a crime within  
12 the meaning of Section 6 of Article XIII B of the California  
13 Constitution.

